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GOOGLE INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,  
  
Plaintiff,  
  
v.  
  
GOOGLE INC.,  
  
Defendant.

Case No. 3:10-cv-03561-WHA

**DECLARATION OF MICHAEL S. KWUN  
IN SUPPORT OF DEFENDANT GOOGLE  
INC.'S MOTION FOR SUMMARY  
JUDGMENT ON COUNT VIII OF  
PLAINTIFF ORACLE AMERICA'S  
AMENDED COMPLAINT**

Judge: Hon. William Alsup

Hearing: 2:00 p.m., September 15, 2011

1 I, Michael S. Kwun, declare as follows:

2 1. I am of counsel at the law firm of Kecker & Van Nest LLP, counsel to Google Inc.  
3 in the present case. I submit this declaration in support of Defendant Google Inc.'s Motion for  
4 Summary Judgment on Count VIII of Plaintiff Oracle America, Inc.'s Amended Complaint. I  
5 make this declaration based on my own personal knowledge. If called as a witness, I could and  
6 would testify competently to the matters set forth herein.

7 2. Attached hereto are true and correct copies of the following documents:

8 Exhibit A. Plaintiff's Amended Complaint for Patent and Copyright

9 Infringement (without exhibits), filed on October 27, 2010.

10 Exhibit B. Exhibit H to Plaintiff's Amended Complaint for Patent and

11 Copyright Infringement, filed on October 27, 2010.

12 Exhibit C. Excerpts from Plaintiff's Supplemental Responses to Defendant's

13 Interrogatories, Set No. 1 (Interrogatories Nos. 1-10), served on

14 July 29, 2011.

15 Exhibit D. Exhibits A-E to Plaintiff's Responses to Defendant's

16 Interrogatories, Set No. 1 (Interrogatories Nos. 1-10), served on or

17 about January 6, 2011.

18 Exhibit E. Excerpts from the transcript of proceedings in this case on

19 February 9, 2011.

20 Exhibit F. Excerpts from the Court's July 22, 2011 Order Granting In Part

21 Motion to Strike Damage Report of Plaintiff Expert Iain Cockburn.

22 Exhibit G. The September 20, 1994 Prepared Testimony of Sun

23 Microsystems, Inc.'s Chief Technical Officer to the Senate

24 Judiciary Committee, Antitrust, Technology and Law

25 Subcommittee, as reported by the Federal News Service and

26 downloaded from Lexis-Nexis.

27 Exhibit H. A document titled, "PROPOSAL : Apache Harmony - J2SE 5

28 Project," downloaded from <http://mail->

[archives.apache.org/mod\\_mbox/harmony-dev/200505.mbox/%3C3923A844-DEC5-4CC2-ADED-B1F144BB6AF5@apache.org%3E](http://archives.apache.org/mod_mbox/harmony-dev/200505.mbox/%3C3923A844-DEC5-4CC2-ADED-B1F144BB6AF5@apache.org%3E).

Exhibit I. A document titled, “Apache Harmony - Compatibility goals in the Apache Harmony Classlib,” downloaded from <http://harmony.apache.org/subcomponents/classlibrary/compat.html>.

Exhibit J. A document titled, “Apache Harmony - Frequently Asked Questions,” downloaded from <http://harmony.apache.org/faq.html>.

Exhibit K. A document titled, “GNU Classpath Hacker’s Guide: GNU Classpath Hacker’s Guide,” downloaded from <http://www.gnu.org/software/classpath/docs/cp-hacking.html>.

Exhibit L. A document dated November 5, 2007, titled “Jonathan’s Blog.”

Exhibit M. A document dated November 5, 2007, titled “Is a Java power play lurking beneath Google’s Open Handset Alliance? | ZDNet,” downloaded from <http://www.zdnet.com/blog/btl/is-a-java-power-play-lurking-beneath-googles-open-handset-alliance/6900>.

Exhibit N. Counsel for Oracle’s February 18, 2011 letter to the Court in opposition to Google’s request for leave to file a motion for summary judgment on Oracle’s copyright infringement claim.

Exhibit O. Excerpts from Plaintiff’s Responses to Defendant’s Interrogatories, Set No. 1 (Interrogatories Nos. 1-10), served on or about January 6, 2011.

3. No exhibits were attached to Plaintiff’s Supplemental Responses to Defendant’s Interrogatories (Exhibit C to this declaration), so I understand the references therein to Exhibits A-E to refer to the exhibits to Plaintiff’s original responses to those interrogatories (Exhibit D to this declaration).

1 I declare under penalty of perjury that the foregoing facts are true and correct.

2 Executed on August 1, 2011 in San Francisco, California.

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/s/ Michael S. Kwun

Michael S. Kwun

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